

### **REMARKS/ARGUMENTS**

Applicant has carefully reviewed and considered the Office Action mailed on December 16, 2010, and the references cited therewith.

Claims 54, 59, 62-64, and 67-68 are amended, claims 1-53, 55-58, 60-61, and 65-66 are canceled, and no claims are added; as a result, claims 54, 59, 62-64, and 67-68 are now pending in this application.

#### **Examiner Interview Summary**

Applicant thanks Examiner Kathleen Sonnett for the courtesy of a telephone interview on March 15, 2011. Applicant and Examiner Sonnett appeared to reach agreement that independent claims 54, 59, 63, and 67 and the accompanying remarks would overcome the rejection thereof in the present Office Action. Applicant thanks Examiner Sonnett for her time and consideration.

#### **Information Disclosure Statement**

Applicant notes that in the IDS submitted on 08/20/2004 all the Japanese patent documents include publication dates. However, Examiner Sonnett specified in the interview that Abstracts are required in English for these references. Applicant notes that these Abstracts are not readily available at this time and will need to be located and provided at a future date.

Applicant further notes that none of the citations in the IDS submitted 05/04/2009 have been "lined through." As such, the alleged problems with this IDS submission are not apparent to Applicant.

The content of the video cassette was cited in the IDS submitted 04/30/2001. The video cassette is referred to as, "Video cassette allegedly showing operation conducted by Geoffery H. White on November 26, 1992". Applicant notes that Geoffery H. White is not listed as an inventor on the present application, nor the parent application 08/317,763, now issued U.S. patent 5,609,627. As such, Applicant respectfully submits that the video cassette is not a model or exhibit of the

present disclosure. Hence, photographs of the video apparently do not need to be submitted because MPEP 608.03, quoted below, does not appear to apply:

>Models or exhibits that are required by the Office or filed with a petition under 37 CFR 1.91(a)(3) must be accompanied by photographs that (A) show multiple views of the material features of the model or exhibit, and (B) substantially conform to the requirements of 37 CFR 1.84. See 37 CFR 1.91(c). Material features are considered to be those features which represent that portion(s) of the model or exhibit forming the basis for which the model or exhibit has been submitted. Where a video or DVD or similar item is submitted as a model or exhibit, applicant must submit photographs of what is depicted in the video or DVD (the content of the material such as a still image single frame of a movie) and not a photograph of a video cassette, DVD disc or compact disc.<

As such, Applicant respectfully requests that a copy of the 1449 Form, listing all references that were submitted with the Information Disclosure Statement filed on August 28, 1997, April 30, 2001 and May 4, 2009, be marked as being considered and be initialed by the Examiner, and be returned with the next official communication.

#### Interference

Applicant is requested to indicate whether or not this application is part of interference of 104,192 as the patent office's records are unclear.

Independent claim 59, 63, and 67, as currently amended, are not part of interference of 104,192 because they recite patentably distinguishable subject matter that was not present in the claims considered in the interference of 104,192.

#### Double Patenting Rejection

Claims 54 and 62 were rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 5,609,627.

A Terminal Disclaimer in compliance with 37 CFR 1.321(b)(iv) is enclosed herewith to overcome these rejections.

§ 102 Rejection of the Claims

Claims 59, 63-64, and 67-68 were rejected under 35 USC §102(e) as being allegedly anticipated by Martin (U.S. Patent No. 5,575,817). Applicant respectfully traverses the rejection as follows.

The Martin reference appears to teach, “An apparatus and method for reinforcing a bifurcating blood vessel.” (Abstract). The Martin reference appears to go on to show, in Figure 4, a second section 2 of a bifurcated graft that can be inserted into a lower limb 5 of the first section 1 of the bifurcated graft. The second section shown in Figure 4 appears to illustrate a configuration with a gradually narrowing taper at the proximal end that transitions into a widening taper far outside the lower limb of the first section of the bifurcated graft.

Hence, Applicant respectfully submits that the Martin reference does not teach a bifurcated stent having a bifurcated proximal stent portion adapted to be disposed within said blood vessel, a first distal stent portion adapted to extend across the bifurcation into one of the branched vessels, and a second distal stent portion shorter than said first distal stent portion and configured to be disposed entirely within said blood vessel, wherein the second distal stent comprises a distal orifice at a distal end of a tapering portion which when expanded serves to receive a male engaging portion having a frustoconical configuration of an additional stent completely within a female engaging portion of the distal orifice.

In contrast, Applicant's independent claim 59, as currently amended, presently recites in part:

a bifurcated stent having a bifurcated proximal stent portion adapted to be disposed within said blood vessel, a first distal stent portion adapted to extend across the bifurcation into one of the branched vessels, and a second distal stent portion shorter than said first distal stent portion and configured to be disposed entirely within said blood vessel, wherein the second distal stent comprises a distal

orifice at a distal end of a tapering portion which when expanded serves to receive a male engaging portion having a frustoconical configuration of an additional stent completely within a female engaging portion of the distal orifice;

Support for the amended claim language is provided throughout the specification of the present application as originally submitted. For instance, such support is located in the specification on page 28, line 25, through page 33, line 16, and in Figures 1A-1B, 5-7, and 19-20.

Independent claim 63, as currently amended, presently recites in part:

placing in the vessel a first bifurcated stent having at least one leg disposed entirely within the vessel, the bifurcated stent also having at least one distal orifice at a distal end of a tapering portion of the at least one leg which when expanded serves to receive a male engaging portion having a frustoconical configuration of a second stent completely within a female engaging portion of the distal orifice;

In addition, independent claim 67, as currently amended, presently recites in part:

a first bifurcated stent comprising a proximal stent portion and two intermediate stent portions extending distally relative to said assembly bifurcation, wherein at least one of the intermediate stent portions has a distal orifice at a distal end of a tapering portion which when expanded serves to receive a male engaging portion having a frustoconical configuration of at least one second stent completely within a female engaging portion of the distal orifice;

As such, Applicant respectfully submits that the Martin reference does not teach each and every element and limitation of Applicant's independent claims 59, 63, and 67, as currently amended. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 102 rejection of independent claims 59, 63, and 67, as currently amended, as well as those claims that depend therefrom.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0126 to facilitate prosecution of this matter.

**CERTIFICATE UNDER 37 CFR §1.8:** The undersigned hereby certifies that this correspondence is being electronically filed with the United States Patent and Trademark Office on this 16<sup>th</sup> day of March, 2011.

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